


STUDENT GUIDE

SECOND EDITION



With
exam-style
questions
and model
answers

PEARSON EDEXCEL A-LEVEL

Politics

Government and politics of the USA
and Comparative politics

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Content Guidance

■ The US Constitution and federalism

The nature of the US Constitution

The creation of the US **Constitution** at the Philadelphia Convention, and its ratification in 1789, forged the 13 formerly British colonies into the new, sovereign country of the United States of America.

Vagueness, codification and entrenchment

At 7,000 words, the US Constitution is a comparatively short document. It is therefore vague in places while being specific in others. It is divided into seven articles, with the subsequent addition of 27 amendments, and outlines the powers of each branch of government and how the new country would operate as a democracy.

Some of the powers given to federal government are explicitly stated within the Constitution, while some powers are those that have been interpreted as a result of the vague nature of the Constitution.

- Enumerated powers are those which are explicitly laid out in the Constitution and given to a branch of government: for example, Congress is given the power to impeach the president.
- Implied powers are those which are taken and exercised by a branch of government without it having been given this power explicitly. Instead it is interpreted from the language used in the Constitution: for example, the 'necessary and proper clause' has allowed Congress far greater scope over what laws it may pass than is explicitly laid out.

Synoptic link

Implied powers can allow the three branches of government to expand their powers beyond the Constitution. The use of executive orders can allow the president something akin to limited legislative power (see page 37).

The US Constitution is **entrenched**, ensuring that it cannot be easily changed. Importantly, the Constitution requires a 'supermajority' in order for any formal amendment to be added to it. This makes the process very challenging and is one of the reasons so few amendments have been added in over 200 years.

Entrenchment The system for amending the Constitution being protected by law. In the US Constitution, Article V outlines the amendment process.

Constitution A set of principles and practices which outlines how a political system runs, the location of power and the relationship between the government and the governed.

Comparative link

The UK Constitution is uncoded, making it more flexible and detailed than the US Constitution, but also more difficult to understand and potentially open to abuse.

Knowledge check 1

Why is the 'necessary and proper clause' nicknamed the 'elastic clause'?

The constitutional framework (powers) of the US branches of government

The first three articles of the Constitution outline the enumerated powers of the three branches that make up the federal government of the US. The main enumerated powers of each branch are:

- Congress (Article I): all legislative power; power to lay and collect taxes; regulate commerce; coin money; declare war; override the presidential veto; impeachment; investigation; ratifying treaties and appointments (actually enumerated in Article II)
- President (Article II): recommend legislation; sign or veto legislation; commander-in-chief; nomination of judges; power of pardon
- Supreme Court (Article III): judicial power

In separating out the powers in this way, and allowing each branch the power to check the actions of the others, the US Constitution should ensure that no one branch of government becomes too powerful.

The other articles deal with the role of the states (Article IV), the amendment process (Article V), the supremacy of the US Constitution to all other law (Article VI) and the requirements for the ratification of the Constitution (Article VII).

The amendment process

Article V explains how amendments to the US Constitution can be made. The formal process is shown in Table 1.

Table 1 The amendment process

Federal level — proposal stage	States level — ratification stage
Two-thirds of each House of Congress vote to agree to a proposed amendment	→ Three-quarters of state legislatures vote to ratify the amendment
Two-thirds of states call a national constitutional convention, which proposes an amendment	→ Three-quarters of states hold state constitutional conventions and vote to ratify the amendment

There have been 27 amendments to the US Constitution:

- the Bill of Rights (First to Tenth), which protects freedoms such as speech, religion and assembly and freedom from cruel and unusual punishment, and which reserves all other powers not mentioned in the Constitution to the states
- the Twelfth, Twentieth, Twenty-Second and Twenty-Fifth, which all clarify the presidential election and succession procedures
- the Civil War amendments (Thirteenth to Fifteenth), which ensure that recently freed slaves will be treated equally under the Constitution
- the Sixteenth, which allows Congress to raise income tax and is the only amendment which directly overturns a Supreme Court ruling
- the Seventeenth, which makes the role of senator elected rather than appointed
- the Eighteenth and Twenty-First, which respectively ban and then allow the production and sale of alcohol
- the Nineteenth and Twenty-Sixth, which change voting eligibility, removing gender requirements and lowering the voting age to 18

Knowledge check 2

Where does the Supreme Court formally get the power of judicial review from?

Exam tip

Make sure that you are aware of the difference between 'separation of powers' and 'checks and balances', and how they relate to each other.

Advantages of the process

- The requirement for supermajorities ensures the broad support of the US population for any amendment.
- It protects the Constitution from being changed by a short-lived popular opinion.
- It prevents tyranny — of the larger states over the small by valuing each state equally in the process, and of the federal government by requiring state approval.
- It works — there have been a number of amendments to the Constitution.

Disadvantages of the process

- The requirement for a **supermajority** makes it very difficult to pass any amendments, meaning the Constitution may become outdated.
- Due to the requirement for supermajorities, it is possible for minority interests to be ignored.
- Mistakes have been made — the Eighteenth Amendment being later repealed by the Twenty-First Amendment shows that the process is not rigorous enough.
- It is possible for a small number of states to prevent an amendment passing, even if it is supported by a majority of the US population.

The principles of the US Constitution

The Founding Fathers wrote the US Constitution using a number of key principles that are evident in the text of the document (even if the principle is not explicitly named in the text). These ‘principles’ are the beliefs the Founding Fathers were trying to uphold in their newly independent country.

Federalism

A federal government is one in which two levels of government exist, with each having its own powers. In the US Constitution, these two levels are ‘federal’ (or national) government and the state governments.

The words ‘federal’ or **‘federalism’** do not actually appear in the US Constitution but the principle can be seen throughout the document in the ways in which power is divided. The Constitution tries to protect the powers of both federal and state government in a number of ways. These are shown in Table 2.

Table 2 How the Constitution protects the power of the states and federal government

Protecting the power of states	Protecting the power of federal government
<ul style="list-style-type: none">■ Tenth Amendment■ The states control how elections are run in their state■ Frequent, staggered election cycle■ States appointed their senators (until 1913)	<ul style="list-style-type: none">■ Enumerated powers in Articles I, II and III■ Implied powers such as the ‘elastic clause’■ The power to raise tax so federal government would be funded

The powers of federal government are enumerated in the Constitution: any powers that are not listed here were expected to be carried out by the state governments. The addition of the Tenth Amendment in 1791 made this expectation clear:

Synoptic link

The rights outlined in constitutional amendments allow the US Supreme Court to interpret civil rights and pass judgements to extend, protect or change them (see page 55).

Supermajority The requirement to gain a level of support which exceeds a standard majority of 50% + 1.

Exam tip

To achieve AO2 analysis, you must explain *why* these points could be considered an advantage or a disadvantage. Do not just describe them.

Principle A basic idea or belief which provides the framework for US democracy and is embedded within the US Constitution.

Knowledge check 3

Who were the Founding Fathers?

Federalism The principle of shared sovereignty between the federal (or national) government and the states, where each has its own areas of power and responsibility.

Section A questions

Below there are five examples of Section A questions. Table 1 gives an at-a-glance view of the question topics, the levels that the student answers have been judged to meet, and the resulting grades.

Table 1 Section A questions/answers with levels and grades awarded

Topic	Level	Grade
US Constitution	Level 4	A
US Congress	Level 2/3	C
US presidency	Level 4	A*
US Supreme Court and civil rights	Level 3	B
US democracy and participation	Level 2	D

US Constitution

Examine how the US and UK constitutions promote separation of powers and checks and balances.

(12 marks)

Deconstruct the question:

- Promote — only write about ways in which the factors below are promoted. There is no need to write about failures.
- Separation of powers — the splitting of political power between branches of government.
- Checks and balances — the ability of one branch of government to scrutinise the work of another, and potentially prevent them from acting.
- As 'similarities' or 'differences' are not identified in the question, we could deal with either, or both.

Student answer

Both constitutions give the executives power to introduce and amend legislation, checking the legislative branch but not providing the executives with unbridled power. The prime minister and president can have a clear influence on what legislation is produced, especially as the prime minister is likely to have a parliamentary majority and the president's legislative agenda is conventionally expected to pass Congress. However, controversial legislation such as Obamacare and the Brexit withdrawal bill have passed after significant amendments, with the legislature not bending to the will of the executive. This separation of legislative power between branches should therefore ensure a high quality of legislation supported by an electoral mandate.

In both countries, the Supreme Court's power is protected as separate from that of the executive and legislative branches. Article III of the US Constitution and the Constitutional Reform Act 2005 in the UK clearly give the Court its own mandate to carry out judicial review. Not only does this promote separation of powers, it also allows them to check the executive and legislative branches. PM Johnson and President Trump lost cases in their Supreme Courts, and were forced to change their actions, Johnson over prorogation

The student draws an immediate comparison and clearly links it to the question. They use specific language but also demonstrate how the political system of each country works in a concise but detailed manner. They directly examine the impact of this constitutional division, demonstrating analysis and excellent knowledge.

The student has demonstrated detailed and specific knowledge of both constitutions and supported it with superb and recent examples while not being tempted to over-describe them. They have demonstrated the impact of these examples with relevance to this question.

in 2019 and Trump over his 2020 election appeal. This separation therefore empowers the Court to limit any political overreach from the other branches.

Separation of powers is also promoted by the power of the legislatures over foreign policy. Both legislatures have the power to authorise military action, albeit Congress has this power formally in the Constitution while Parliament took it more recently under the UK's flexible Constitution. This reflects the link between separation of powers and checks and balances, with branches being independent but inter-dependent. In each case, the authorisation of military action still needs support from the constitutional powers of the executive branch to be carried out, as seen with the final withdrawal of troops in 2021 from the authorised conflict in the Middle East.

10/12 marks awarded The student shows a superb and detailed knowledge of the nature of both constitutions and of the theory underpinning the political concepts in this question. They have avoided being drawn into evaluation of the success of these powers, instead focusing keenly on the question.

This is a strong answer, which would be placed at the bottom of Level 4. Accurate knowledge throughout and consistent comparisons drawn in every paragraph, showing logical impact, meet the Level 4 requirements and would earn an A grade. Some development of A02 would push this higher still.

US Congress

Examine how individual members of the US Congress and UK Parliament can have an impact on legislation.

(12 marks)

Deconstruct the question:

- Individual members — not parties as a whole, or their leadership.
- Impact — this means they must be able to actually change something through the method you outline.
- Legislation — this is the only factor you should be writing about.
- As 'similarities' or 'differences' are not identified in the question, we could deal with either, or both.

Student answer

MPs in Parliament can introduce legislation through Private Members' Bills. Comparatively, any member of Congress in the US can introduce a bill into their House. In Parliament, only a certain number of MPs will be able to introduce Private Members' Bills whereas in Congress there is no limit on the number of bills that can be introduced. In both cases, the chances of success of an individual member are not very high as Congress and Parliament are dominated by parties that have their own agendas and therefore may not vote to pass this legislation.

Both the UK and US use select committees to scrutinise legislation. Members of these committees are drawn from across the legislature and give all members a chance to review legislation and suggest amendments to it. This is a stage at which members can have clear impact because committees have more time to analyse a bill than when it is debated by a full chamber within the legislature. For example, Charles Walker's amendments to the Brexit bill were accepted by government.

This paragraph shows a clear comparison with some expansion of knowledge and an attempt at analysis. However, it is very descriptive and not particularly in depth. In the last sentence, the student has spent time evaluating, which is an A03 skill and therefore not rewardable. There are no examples given here, limiting A01.

The start of this paragraph shows only some accurate knowledge, as most legislation in the UK is scrutinised by public bill committees. The student has tried to be more analytical and linked this paragraph to the question. However, the Charles Walker example is not comparative nor explained, rather just stated and therefore limited in its value.